

FILED

AUG 14 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

OSBALDO PARRA,

Plaintiff,

v.

E. BRIDGNELL, et al.,

Defendants.

No. C 12-04312 EJD (PR)

ORDER DIRECTING PLAINTIFF TO
PROVIDE COURT WITH MORE
INFORMATION FOR DEFENDANT
E. TALANOA; REQUESTING
INFORMATION FROM LITIGATION
COORDINATOR

Plaintiff, proceeding pro se, filed a third amended civil rights complaint pursuant to 42 U.S.C. § 1983. (Docket No. 19.) The Court ordered service upon the named Defendants. (Docket No. 20.) Notices of Lawsuit and Requests for Waiver of Service of Summons for each of the Defendants were mailed to Salinas Valley State Prison ("SVSP"). On July 29, 2013, Litigation Coordinator G. Lopez sent a letter to the Court indicating that Defendant E. Talanoa was not located in the personnel database as ever being employed at SVSP. (Docket No. 46.) Accordingly, Defendant E. Talanoa has not been served.

Although a plaintiff who is incarcerated and proceeding in forma pauperis may rely on service by the Marshal, such plaintiff "may not remain silent and do nothing to effectuate such service"; rather, "[a]t a minimum, a plaintiff should request service upon

1 the appropriate defendant and attempt to remedy any apparent defects of which [he] has
2 knowledge.” Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). Here,
3 Plaintiff’s complaint has been pending for over 120 days, and thus, absent a showing of
4 “good cause,” is subject to dismissal without prejudice. See Fed. R. Civ. P. 4(m).

5 Because Plaintiff has not provided sufficient information to allow the Marshal to
6 locate and serve Defendant E. Talanoa, Plaintiff must remedy the situation or face
7 dismissal of his claims against this defendant without prejudice. See Walker v. Sumner,
8 14 F.3d 1415, 1421-22 (9th Cir. 1994) (holding prisoner failed to show cause why
9 prison official should not be dismissed under Rule 4(m) where prisoner failed to show
10 he had provided Marshal with sufficient information to effectuate service).

11 Accordingly, Plaintiff must provide the Court with accurate and current address for
12 Defendant E. Tolanoa such that the Marshal is able to effect service.

13 The Court notes that Plaintiff submitted with his complaint institutional
14 documents that identify “Talanoa, E” as a HealthCare Appeals Coordinator in the
15 Health Care Appeals Office of SVSP. (See Docket No. 1, pp. 32-33, attached.) In the
16 interest of justice, the Court requests that the SVSP Litigation Coordinator review this
17 document and determine whether the employee identified in the institutional document
18 is Defendant E. Talanoa. If the employee is said Defendant, the Court requests that the
19 SVSP Litigation Coordinator notify the Court if the individual is currently employed at
20 SVSP. If the individual is a former employee of SVSP, but still employed with the
21 California Department of Corrections and Rehabilitation (“CDCR”), the SVSP
22 Litigation Coordinator is requested to provide a current employment address for the
23 Defendant. If Defendant is a former employee but no longer employed with CDCR, the
24 Litigation Coordinator is requested to provide forwarding address, or notice that such
25 information is not available.

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CONCLUSION

1
2 1. Plaintiff must file a notice providing the Court with an accurate and current
3 address for **Defendant E. Talanoa** such that the Marshal is able to effect service. If
4 Plaintiff fails to provide the Court with an accurate and current address for Defendant E.
5 Talanoa **within thirty (30) days** of the date this order is filed, Plaintiff's claims against
6 this Defendant will be dismissed without prejudice pursuant to Rule 4(m) of the Federal
7 Rules of Civil Procedure.

8 2. In the interest of the justice, the Clerk of the Court shall forward a copy of
9 this order to the Litigation Coordinator at **Salinas Valley State Prison, P.O. Box 1020,**
10 **Soledad, CA 93960**, who is requested to provide the current employment status for
11 **Defendant E. Talanoa** and any available forwarding address, or notice that such
12 information is not available, **within thirty (30) days** from the date this order is filed.

DATED: 8/13/13
EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

OSBALDO PARRA,
Plaintiff,

Case Number CV 12-04312 EJD (PR)

v.

CERTIFICATE OF SERVICE

E. BRIDGNELL, et al.,
Defendants.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 8/14/13, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) inter-office delivery receptacle located in the Clerk's office.

Osbaldo Parra
K-63368
CALIFORNIA STATE PRISON, SACRAMENTO (290066)
P.O. BOX 290066
REPRESA, CA 95671-0066

DATED: 8/14/13


Richard W. Wierking, Clerk
By: Elizabeth Garcia, Deputy Clerk